REMARKS

This application has been reviewed in light of the Office Action dated January 24, 2003. Claims 1-16 are pending in the application. Claims 1, 6 and 9 are amended in a manner that Applicants believe overcomes the rejections in the Office Action. Support for the amendments can be found throughout the specification and figures of the present disclosure. No new matter or issues are believed to be introduced by the amendments.

In the Office Action, claims 1-5, and 9-16 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,304,892 to Bhoj et al. (Bhoj '892). However, it is respectfully submitted that independent claim 1 as amended, claims 2-5 ultimately depending therefrom, independent claim 9 as amended and claims 10-16 ultimately depending therefrom clearly and patentably distinguish over Bhoj '892.

Independent claim 1 of the present application, as amended recites, *inter alia*, "defining classes of back end servers" and "defining a set of parameters to be measured for each of said classes of back end servers". Similarly, independent claim 9 recites, *inter alia*, "defining classes of back end servers" and "selecting a set of service parameters to be monitored for each said classes of back-end servers". Bhoj '892 in no way discloses or suggests a method as recited in amended independent claims 1 or 9.

The Examiner indicated that "defining a set of back end servers" is anticipated by Bhoj '892 in Fig. 2, and col. 7, lines 14-21. Applicants respectfully submit that, contrary to the Examiner's characterizations, the claimed element "defining classes of back end servers" is not anticipated by Fig. 2 or col. 7, lines 14-21 of Bhoj. Rather Fig. 2 illustrates prior art that merely shows various back-end servers. Col. 7, lines 14-21 recite:

"When the data service system 32 needs to evaluate the service performance of the data service system 31, the service management system 32a sends a request to the service management system 31a. The service management system 31a then, in accordance with the SLS

between the two data service systems, selectively sends some of the management data of the data service system 31 to the service management system 32a".

Applicants submit that this reference has nothing to do with defining <u>classes</u> of back end servers as claimed.

The Examiner also indicated that "defining a set of service parameters to be measured" is anticipated by Bhoj '892 at col. 12 lines 61-67. Applicants respectfully submit that the referenced section of Bhoj recites:

> "Verify() – This method verifies the contract between he customer and the service provider. The contents of the contracts are agreed upon prior to this verification request. The input parameters to this method are the customer identity and the contract name to be verified. This method returns a boolean value of whether or not a contract is in compliance." (Col. 12, lines 61-67).

Applicants respectfully submit that, contrary to the Examiner's characterizations this reference does not anticipate "defining a set of service parameters to be measured <u>for each of said back-end servers</u>" as claimed.

The Examiner also indicated that the claimed element of claim 9 reciting "... creating a database of monitored service parameters" is anticipated by Bhoj '892 at col. 11, lines 5-6. Applicants submit that claim 9 is amended herein to recite "... creating a database of <u>said set of</u> monitored service parameters. Applicants submit that this element now more clearly distinguishes over Bhoj '892.

Because of the above distinctions, it is respectfully submitted that independent claim 1, as amended claims 2-5, which ultimately depend therefrom, independent claim 9 as amended, and claims 10-16 which ultimately depend therefrom patentably distinguish and are not anticipated by Bhoj '892. Reconsideration and withdrawal of the rejections are respectfully requested.

In the Office Action, claims 6-8 were rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,269,401 to Fletcher et al. (Fletcher '401). However, it is respectfully

submitted that independent claim 6 as amended and claims 7-8 ultimately depending therefrom, clearly and patentably distinguish over Fletcher '401.

Independent claim 6 is amended herein to more clearly describe the invention. Claim 6 as amended recites, *inter alia*, "... at least one <u>class of</u> back-end server<u>s</u> and a reporter; a network connecting said at least one <u>class of</u> back-end server<u>s</u> and said reporter; [and] a collection processor measuring and collecting a set of defined parameters <u>for each of said at least one class of back-end servers.</u>" Applicants respectfully submit that Fletcher '401 in no way anticipates collecting a set of defined parameters for each of a <u>class</u> of back-end servers.

Because of the above distinctions, it is respectfully submitted that independent claim 6, as amended and claims 7-8, which ultimately depend therefrom, patentably distinguish and are not anticipated b y Fletcher '401. Reconsideration and withdrawal of the rejections are respectfully requested.

The present amendments are submitted to put the claims in condition for allowance, and in any event to put the claims in better condition for appeal, if necessary.

In view of the foregoing amendments and remarks, it is respectfully submitted that claims 1-16 presently pending in the application are believed to be in condition for allowance and patentably distinguish over the art of record. An early notice thereof is earnestly solicited. If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call the Applicants' undersigned attorney.

Please charge any deficiency as well as any other fees that may become due at any time during the pendency of this application, or credit any over payment of such fees to deposit account no. 50-0369. Also, in the event that any extensions of time for responding are required for the pending application, please treat this paper as a petition to extend the time as required and charge deposit account no. 50-0369 therefore.

Respectfully submitted,

Dated: 4-23-03

Brian L. Michaelis, Esq.
Reg. No. 34,221
Customer No. 21710
Attorney for Applicants

BROWN RUDNICK BERLACK ISRAELS LLP
Box IP, 18th Floor
One Financial Center
Boston, MA 02111
Tel: 1-617-856-8369
Fax: 1-617 856-8201

#1196977 v\1 - 20496/2